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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,740	10/03/2003	Jan Christensen	7311	4914

39196 7590 03/21/2005

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EXAMINER

GROSSO, HARRY A

ART UNIT PAPER NUMBER

3727

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/677,740	<b>Applicant(s)</b> CHRISTENSEN, JAN	
	<b>Examiner</b> Harry A. Grosso	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/3/03</u> . | 6) <input type="checkbox"/> Other: _____  |

***Election/Restrictions***

1. Applicant's election of the invention of Group I in the reply filed on February 15, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 3 and 18 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, 10 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shaw et al (5,429,437).
5. Shaw et al discloses a foldable receptacle with a bottom and vertical sidewalls inclined inwardly with tubular support structures disposed within the container (14, 15, Figure 3 and column 3, lines 18-22 and 40-44), and an open top (13).
6. Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Hoie (4,383,564). Hoie discloses a foldable water tank with a bottom and vertical sidewalls inclined inwardly (Figure 1 and column 1, lines 5-10), the receptacle having a folded and rolled configuration as shown in Figures 2 and 3 when not in use.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw et al in view of Hoie (4,383,564). Shaw et al discloses the foldable water tank of claim 1 but does not teach the use of an outlet or inlet flange. Hoie discloses the use of an outlet/inlet flange (6, Figure 1 and column 3, lines 33-37) for filling or tapping water from the tank. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of the outlet/inlet flange as disclosed by Hoie in the water tank disclosed by Shaw et al for filling or tapping water from the tank.

9. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al (2,638,951) in view of Boardman (2,593,408). Smith et al discloses a foldable receptacle that is substantially a truncated pyramid with corners, having a bottom, inclined sidewalls but does not teach the use of support structures at the corners of the receptacle. Boardman discloses a receptacle with support structures at the corners that include an inwardly inclined vertical member and a base (17) and are connected to the sidewalls at the upper corner (15, Figure 2 and column 2, lines 3-4) connecting the top of the sidewall to the bottom of the sidewall and supporting the sidewall. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to have incorporated the use of the support structures at the corners that include an inwardly inclined vertical member and are connected to the sidewalls at the upper corner as disclosed by Boardman in the foldable receptacle disclosed by Smith et al to connect the top of the sidewall to the bottom of the sidewall and support the sidewall.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al and Boardman as applied to claim 1 above, and further in view of Hoffman (2,567,514). Smith et al and Boardman disclose the foldable receptacle of claim 1 as discussed in paragraph 9 but neither Smith et al nor Boardman teaches how the vertical member is connected to the sidewall. Hoffman discloses a foldable receptacle with grommets in the top edge of the receptacle and hooks used to attach the receptacle to the support structure. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of grommets in the top edge of the receptacle and hooks as disclosed by Hoffman in the receptacle disclosed by Smith et al and Boardman to attach the receptacle to the support structure.

11. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al and Boardman as applied to claim 1 above, and further in view of Gracie (5,622,344) and Kou (2003/0024203 A1, February 6, 2003).

12. The receptacle of claim 1 is disclosed as discussed in paragraph 9 above, but neither Smith et al nor Boardman teaches the construction of the support structure as recited. Gracie discloses a support structure with an inclined vertical first tubular member (54), second (98) and third (100) members pivotally attached at their first end,

forming acute angles when deployed (Figures 1 and 6) and adjacent each other in the storage position (Figure 7). Braces between the first and second member (92) and the first and third member (96) are pivotally connected to the second and third members at (102 and 104). The braces are attached to the first member by pivot pins (90, 94) that would be capable of being removed. Gracie does not teach that the second and third members are tubular. Kuo discloses first, second and third tubular members pivotally joined at their first end (20, 30 Figure 1 at the base of each corner and Figure 6) to provide a structure with more stability than flat members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of support structure with an inclined vertical first tubular member, and second and third tubular members pivotally attached at their first end, forming acute angles when deployed and adjacent each other in the storage position as disclosed by Gracie and Kuo in the receptacle disclosed by Smith et al and Boardman to provide a collapsible support structure which can be folded for storage with the receptacle and has the stability to support the receptacle in use.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al, Boardman, Gracie and Kuo as applied to claim 7 above, and further in view of Hoffman ('514). The foldable water tank of claim 7 is disclosed as discussed in paragraph 12 above but Smith et al, Boardman, Gracie and Kuo do not teach the folding and storage of the receptacle and support structure. Hoffman disclosed the folding of the receptacle with the support structure and securing them in a canvas case with a handle (63, Figures 7 and 8, column 4, lines 63-70) for convenience of carrying as well

as holding the components together. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the folding of the receptacle with the support structure and securing them in a case with a handle as disclosed by Hoffman in the water tank of claim 7 for convenience of carrying as well as holding the components together. The examiner takes official notice that the concept of placing the components in a bag for the purpose of carrying them or protecting them is well known in the art and it would have been obvious to place them in a bag if the case were not used.

14. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al and Boardman and Hoffman as applied to claim 5 above, and further in view of Neff (5,009,189). The foldable water tank of claim 5 is disclosed but neither Smith et al nor Boardman nor Hoffman teaches the use of sleeves. Neff disclosed foldable receptacle with a sleeve at the corners (34, 36, 38, Figures 1 and 6) with vertical support member inserted (46, column 2, lines 42-48) to provide stiffness to the sidewalls. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a sleeve at the corner in which a vertical support member is inserted as disclosed by Neff in the receptacle disclosed by Smith et al and Boardman to provide stiffness to the sidewalls.

15. Claims 14 -17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al, Boardman, Hoffman, Gracie and Kuo as discussed in paragraphs 9-13 above.

**Conclusion**

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wyllie (2,854,049) and Jaffe (2,904,84) disclose foldable tanks. Dupre (4,993,635) discloses a support structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday and alternate Fridays from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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